bsb

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8060 OF 2006

Shetkari Sahakari Sangh Ltd. ... Petitioner

V/s

Kolhapur Zilla Sahakari Nokar Union ... Respondent

Mr. K.S. Bapat for Mr. Avinash H. Fatangare for the petitioner.

Mr. Abhay Nevagi with Mr. Yogesh Paranjape i/by Paras Kuhad & Associates for the respondent.

CORAM: SMT. NISHITA MHATRE, J.

DATED: 21ST AUGUST, 2007.

P.C.:

1. The petitioner has challenged the order of the Industrial Court dated 19.8.2006. The case of the petitioner is that it had a right to reduce the age of the retirement by passing a resolution. According to the petitioner, as per the Board's resolution dated 30.3.1999, the age of retirement was reduced to 58 years from 60 years. 31 employees were retired as a result of the implementation of the Board's resolution. Some of the employees have filed a complaint under Item 1 of Schedule IV of the M.R.T.U. & P.U.L.P. Act contending that they were entitled to continue in employment till

the age of 60 years as that was the age of retirement under the Model Standing Orders which govern their service conditions. The Labour Court has held that the complainants i.e. the respondents herein, had proved that the age of retirement was 60 years and that the petitioner could not have retired the employees at the age of 58.

2. The revision application filed by the petitioner has been dismissed. Both the Courts below have held that the workmen, on whose behalf the complaint was filed and affected by the Board’s resolution dated 30.3.1999, were entitled to wages upto the age of 60 years.

3. The learned advocate for the petitioner contends that only one workman had stepped into the witness box to prove that he was entitled to wages during the period of unemployment for two years. The other workmen had not led any evidence. It is also submitted that the petitioner had a right to terminate the services by reducing the age of retirement under the contract of service.

4. Both, the Labour Court and the Industrial Court, in my view, have for cogent reasons allowed the complaint. Both the Courts below have held that the Model Standing

Orders apply to the workmen and the age of retirement could not have been reduced to 58 years.

5. As regards the back wages, the submission of the learned advocate for the petitioner cannot be accepted. The Labour Court has considered the fact that the petitioner had illegally reduced the age of retirement by a resolution and, therefore, the workmen concerned were entitled to continue in service till the age of 60 years and they were also entitled to be paid two years' wages.

6. Petition rejected.

.....